IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 367 of 1998

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

HEIRS OF DECD. KAMABHAI UMEDBHAI

Versus

MADANA GADH GROUP SEVA SAHKARIMANDALI LIMITED

Appearance:

1. Civil Revision Application No. 367 of 1998

MR AP RAVAL for Petitioner No. 1-1/5

MR DK ACHARYA for Respondent No. 1

RULE SERVED for Respondent No. 2-3,4/1-4/2,4/4

..... for Respondent No. 4

SERVED BY AFFIX.-(R) for Respondent No. 4/3

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 13/02/2004

ORAL JUDGEMENT

This Civil Revision Application is filed by the original judgement debtor no.5 against whom as well as

other judgement debtors Special Darkhast No.22 of 1994 is filed by respondent no.1. In the said execution application a request was made by the decree holder that the property of the judgement debtors should be attached. On behalf of the judgement debtors certain objections were lodged in response to the notice issued by the executing court. The executing court, by its order dated 14.10.1997 rejected the objections raised by the judgement-debtors and the petitioner who is the judgement-debtor no.5 has filed this civil revision application against the said order dated 14.10.1997.

2 Learned advocate Mr Acharya for respondent no.1 has vehemently argued that the revision application is not maintainable as the executing court after rejecting the objections filed by the judgement-debtors has ordered that the execution proceedings be proceeded further as the execution application is at large and the same was not finally terminated. Considering the order of the executing court, it cannot be said that the execution proceedings are disposed of finally. In view of the amendment in Section 115 of the Civil Procedure Code, this civil revision application is not maintainable. However, it will be open for the petitioner to file a substantive petition under Article 227 of the Constitution of India if the petitioner so desires. The revision application is therefore rejected on the ground of non-maintainability.

3 Rule is discharged. Interim relief is vacated.

(P.B. Majmudar, J.)
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